



# **PSC NEWS**

## **Missouri Public Service Commission**

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### **PSC DENIES ENVIRONMENTAL UTILITIES APPLICATION**

Jefferson City (September 5, 2002)---The Missouri Public Service Commission has denied an application filed by Environmental Utilities, LLC (Environmental) which sought to acquire by foreclosure the assets of the Osage Water Company.

On August 22, 2002, Environmental filed an application with the Commission seeking Commission authority to: 1) approve its foreclosure on the assets of Osage Water Company and the transfer of Osage Water Company's assets to Environmental; 2) grant certificates of convenience and necessity to Environmental, authorizing it to provide water and sewer service within Osage Water Company's current certificated service areas; and 3) terminate Osage Water Company's certificates of public convenience and necessity.

Environmental stated that it proposes to acquire by foreclosure the franchise, water works, and sewer systems presently owned and operated by the Osage Water Company. Environmental stated that William P. Mitchell, as president of and on behalf of Osage Water Company, executed a promissory note with a current principal balance of \$500,000 issued by Osage Water Company to secure payment of balances due from Osage Water Company to Gregory D. Williams for legal services rendered. The note is secured by a "Future Advance Deed of Trust & Security Agreement." Environmental claimed that Osage Water Company is in default for failing to pay any of the principal or interest installments due under the note, and that Environmental recently acquired the note and the Future Advance Deed of Trust by assignment.

The PSC Staff and the Office of the Public Counsel filed responses opposing Environmental Utilities' application stating the deed of trust was void because the Osage Water Company had not obtained Commission approval of the deed of trust as required by law.

The Commission stated in its order denying the application: "In addition to relying on the verified

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responses of Staff (PSC Staff) and Public Counsel (Office of the Public Counsel) that state that Osage Water did not receive Commission approval to issue the promissory note and deed of trust, the Commission takes official notice of its own records and finds that the encumbrance was not made in accordance with any Commission order, and is therefore void pursuant to Section 393.190.1. Because the encumbrance itself is void, there can be no foreclosure based upon it. Environmental's application must be denied, and Environmental will be ordered not to proceed with its proposed acquisition."

The Osage Water Company serves approximately 220 water and 155 sewer customers in various parts of Camden County.

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Case No. WM-2003-0065